

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Spl. Appl. Writ No. 53/2022

Soniya Burdak D/o Shri Bhairu Singh Burdak, Aged About 25 Years, R/o Village Jeenwas, Tehsil Data Ramgarh District Sikar, Rajasthan.

----Appellant

Versus

1. The State Of Rajasthan, Through Secretary, Department Of Education, Government Of Rajasthan, Secretariat, Jaipur.
2. The Director, Secondary Education, Rajasthan, Bikaner.
3. District Education Officer, Head Quarter Secondary Education, Jhunjhunu.
4. District Education Officer, Head Quarter Secondary Education, Alwar.

----Respondents

For Appellant(s), : Mr. Vikram Singh Bhati
through V.C.

For Respondent(s) : ---

HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI

HON'BLE MR. JUSTICE MADAN GOPAL VYAS

Order

04/02/2022

सत्यमेव जयते

This appeal is filed by the original petitioner to challenge the judgment of the learned Single Judge dated 02.12.2021. The petitioner was selected for the post of PTI Grade-II by the State Government. She was appointed in Jhunjhunu district. It appears that the select list was reshuffled on account of litigation and consequent Court orders. The State Government thereupon issued a circular dated 10.06.2021 to give effect to the reshuffling of the select list. Paragraph 2 of the circular specifies that only

those candidates, who on account of such reshuffle are being included in the select list, would be called for counselling for allotment of appropriate district. This counselling would not be necessary for the PTI already appointed. Some aggrieved persons filed Civil Writ Petition No.7730/2021. The learned Single Judge disposed of the said petition on 10.08.2021 permitting those petitioners to make a representation to the authorities. Reference was made to a decision rendered at Jaipur Bench in the case of **Reena vs. State of Rajasthan and others (S.B. Civil Writ Petition No.7617/2020, decided on 16.10.2020)**, in which referring to the decision of this Court in the case of **Nirmla Jat vs. State of Rajasthan (S.B. Civil Writ Petition No.5753/2020, decided on 14.9.2020)** was made.

The authorities thereupon issued a fresh circular dated 12.10.2021 in which it was decided that those representations in which the request for movement within district are made, may be considered. However, the request for inter-district transfers would not be accepted. The petitioner thereupon approached the High Court by filing Civil Writ Petition No.16316/2021 and contended that less meritorious persons have been accommodated in Alwar district, whereas she is sent to Jhunjhunu. The learned Single Judge dismissed the writ petition making following observations:

"A perusal of the order passed in the case of Sangeeta Patidar (supra) would reveal that said petitions were decided while referring to order passed in Reena vs. State of Rajasthan & Ors. : S.B.C.W.P. No.7617/2020 decided on 16.10.2020 at Jaipur Bench. The Bench at Jaipur in the case of Reena (supra) referred to paragraph 35 of the judgment in the case of Nirmla Jat (supra) and directed the respondents to follow the same directions. This Court in the case of Nirmla Jat (supra) had, inter alia, directed as under: -

"34. There is yet another reason, for which this Court does not deem it appropriate to direct the

respondents to undertake the exercise afresh. Seniority of the teachers is reckoned Division Wise. Now all the teachers have been allotted the division according to their merit cum preference. When it comes to posting, it has to be noted that they are subject to intra division transfers, hence, posting at a particular place cannot be claimed as a matter of right. Posting is only a matter of convenience, which can be addressed/redressed at a later point of time.

35. Hence, considering the submission of the State, as noticed in para No. 21 above and in view of the common consensus and alternative oral submission of all the learned counsel for the respective petitioners, this Court deems it appropriate and in the interest of all the concerned, particularly the candidates (who are not before this Court) to dispose of all the writ petitions with following directions:-

(i) The State shall publish latest subject-wise and category-wise vacant position of each division on its website, within a period of 15 days from today.

(ii) All the petitioners herein may submit representations to the Director, giving choice(s) qua the vacant positions [out of their division(s)], so published by the State. Representation(s) be furnished within a period of four weeks from publication of such list.

(iii) The petitioners shall also be permitted to request for mutual transfer within their division.

(iv) The Director/Joint Director shall decide petitioners' representations within a period of four weeks thereafter, while trying to accommodate the petitioners in accordance with the preference given by them, of course, if the relevant law/guidelines so permit.

(v) In case, petitioners' representations are rejected, the respondents shall pass a reasoned order under intimation to the concerned.

(vi) The petitioners will be free to take up their remedies against such orders, in accordance with law."

It may be noticed here that the Bench in the case of Nirmla Jat (supra) observed that seniority of the Teachers is reckoned Division Wise, which in the case of P.T.I. Grade-III, which is subject matter of the present writ petitions, is reckoned District Wise. If the directions given in the case of Nirmla Jat (supra) are read mutatis mutandis qua the present case, instead of 'Division', 'District' will have to be read and consequently, the directions as given in the case of Nirmla Jat (supra) would inter alia read as under: -

(i) The State shall publish latest subject-wise and category-wise vacant position of each District on its website, within a period of 15 days from today.

(ii) All the petitioners herein may submit representations to the Director, giving choice(s) qua the vacant positions [out of their district(s)], so published by the State. Representation(s) be furnished within a period of four weeks from publication of such list.

(iii) The petitioners shall also be permitted to request for mutual transfer within their district.

The respondents in the communication dated 12.10.2021, as quoted herein before, have required that in case of Intra-District transfer within newly allotted districts, if representation has been made, the same may be disposed of as per the merit of the candidate(s) and qua the representations seeking Inter-District Transfers, it was directed that the same be dismissed.

The communication dated 12.10.2021 is in consonance with the directions given in the case of Nirmla Jat (supra), when the same is read in context of the district, wherein the Court has specifically indicated that the petitioners may submit representation giving choice of any vacant position (out of their district) so published by the State.

Once in the case of Nirmla Jat (supra), the choice was restricted to Division, wherein the cadre was Division Wise, the stipulation made in the communication dated 12.10.2021 restricting the choice within the district, in the present case, where the cadre is District Wise, the same cannot be faulted on any count.

In view of above fact situation, no case for interference in the order dated 12.10.2021 is made out. The petitions have no substance, they are therefore, dismissed.

In case the representations made by the petitioners are still pending, the same may be decided expeditiously by the respondents, preferably within a period of three weeks in accordance with communication dated 12.10.2021.

The petitioners, who have not made any representation in consonance with communication dated 12.10.2021, they may make representation within a period of ten days from today i.e. by 13.12.2021 and the respondents are directed to pass appropriate orders thereon by 24.12.2021."

The petitioner has challenged the said judgment in the present appeal.

Having heard learned counsel for the appellant and having perused the documents on record, we see no reason to interfere. The learned Single Judge noticed that in the case of Nirmala Jat (supra) the transfer liability of the cadre of teachers was reckoned

division-wise. Accordingly, the observations were made for the movement of teachers within division. In the present case, we are concerned with the post of PTI Grade-III where the cadre is maintained district-wise. The learned Single Judge was of the opinion that the observations and directions of the Court in the case of Nirmala Jat (supra) therefore have to be suitably modified for adoption in the present case. Thus, the petitioner did not have choice of inter-district transfer and the communication of the authority dated 12.10.2021 not accepting any such representation for inter-district transfer was correct.

The question of appointment or absorption in particular district, division or zone at the time of recruitment is essentially for the convenience of the selected candidate but this always is subject to administrative exigencies. No person has a vested right to be posted at a particular place. The selections and recruitments must attain finality. Posting orders which are consequential to such selection and recruitment also must not be allowed to be raised after a reasonable period of time. Accepting such request for inter-district transfer can lead to chain reaction and at times considerable administrative difficulties.

Nothing stated in this order and that of the learned Single Judge would come in the way of the petitioner in seeking inter-district transfer if the Government rules and regulations recognize any such policy.

Under the circumstances, the appeal is dismissed.

(MADAN GOPAL VYAS),J

(AKIL KURESHI),CJ